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there was no error, as the latter statement operated to remedy the evil occasioned by the objectionable remark of the judge. *Cheesebrough v. Conover*, 140 N. Y. 382.

Trial—Failure to Examine Witness—Presumptions—Argument of Counsel.—*Western and A. R. Co. v. Morrison*, 29 S. E. (Ga.) 104. In the trial of an action against a railway company for damages for personal injuries, the evidence was contradictory as to the company's alleged negligence. The company, although it had other witnesses, failed to introduce and examine one employee, a fireman, who was present at the time and place the injuries were sustained, and who was then present in court. *Held*, that it was legitimate for the opposing counsel to argue to the jury that the failure of the company to so introduce and examine the employee was a circumstance from which the jury could draw an inference that if he had been examined, he would have testified as to matter prejudicial to the company. This was held to be so even though the defendant's counsel had caused the employee in question to be present in court that he might be examined by the plaintiff if he so desired, and had so informed the plaintiff's counsel. But the court said the plaintiff could not be then compelled to introduce an adverse witness, and that his failure in this respect was no excuse for the defendant. Simmons, C. J., in a very exhaustive opinion, dissented, mainly upon the ground that as a general rule it is the privilege of a party to rest his case upon such evidence only as he may deem proper and expedient to offer in his behalf; that all the law requires is sufficient proof, *Jackson v. State*, 77 Ala., 25; and that no unfavorable inference or presumption could arise from mere failure to examine a witness, and that such failure was not legitimate matter for comment by counsel.

INJUNCTION.

Injunction—Suit by Taxpayer.—*Kittinger v. Buffalo Traction Co.* 49 N. Y. Supp. 713. An action by a taxpayer will not lie to annul the acts of the legislature and of the municipal authorities granting to a corporation the right to construct surface railroads in public streets, and to enjoin the municipal officials and the corporation from proceeding further. Such authority is within the legitimate exercise of the power to regulate public rights for public uses unless fraud existed or unless such acts would cause an injury to municipal property. *Potter v. Collis*, 19 App. Div. 392, 46 N. Y. Supp. 471. Ward, J. dissented, on the ground that where corrupt, wrongful and illegal action is the basis of the cause of action, it is maintainable.

Receivers—Injunction.—*Sternberg et al. v. Wolff et al.*, 39 Atl. Rep. (N. J.) 396. Plaintiff and wife and defendant and wife formed a corporation for the transaction of the clothing business, the shares being equally divided between the two families. According to the by-laws the whole number of directors was necessary to constitute a quorum and the four persons above named were elected directors. Difficulties and dissensions arising, the management of the business by the board of directors was in a dead-lock, although the company was doing a successful business. A bill was filed by plaintiff to restrain the defendant from exercising the duties of treasurer (no mismanagement however being proved), with a further prayer that, if necessary, a receiver might be